

CASE NO. 13-20-000280-CR

ELIJAH TATES

§

IN THE COURT OF APPEALS

V.

§

THIRTEENTH DISTRICT OF

THE STATE OF TEXAS

§

TEXAS AT CORPUS CHRISTI

STATE'S MOTION TO FILE SUPPLEMENTAL BRIEF

COMES NOW, the State of Texas, by and through its Assistant District Attorney, Ryan Calvert, and files this Motion to File Supplemental Brief pursuant to Tex. R. App. P. 38.7.

The State would show in support of her action that:

1. The case is now pending on appeal from the 85th District Court of Brazos County, Texas, cause number 16-05720-CRF-85.
4. Appellant filed Notice of Appeal on May 5, 2020.
5. The clerk's record was filed June 30, 2020. The reporter's record was filed July 1, 2020.
6. Appellant's brief was filed on September 30, 2020;
7. The State's Brief was filed October 28, 2020;
8. Appellant filed a Reply Brief on November 9, 2020;
9. *Oral argument is scheduled for Wednesday, January 27, 2021.*

10. And as good cause the State's attorney, Ryan Calvert, would show this Court that its two-page supplemental letter-brief would be submitted to inform this Court of an inaccurate factual assertion contained in Appellant's Reply Brief which is relevant to the matters to be discussed at oral argument on Wednesday, January 27, 2021. Specifically, Appellant's Reply Brief, which was filed on November 9, 2020, states that "*all trial participants, except [Appellant], were physically present in the courtroom.*" (Appellant's Reply Brief, p. 4). In fact, the record shows that the only trial participants physically present in the courtroom were the Judge, the court reporter, and Appellant's trial counsel.

Respectfully submitted,

/s/ Ryan Calvert  
Assistant District Attorney  
Brazos County, Texas  
300 East 26th Street, Suite 310  
Bryan, Texas 77803  
(979) 361-4320  
State Bar No. 24036308

CERTIFICATE OF SERVICE

I, Ryan Calvert, do hereby certify that a true and correct copy of the above and foregoing State's Motion to File Supplemental Brief was emailed to Mr. Lane Thibodeaux, Attorney of Record for the Appellant, at lanet1@msn.com on this the 25th day of January, 2020.

/s/ Ryan Calvert  
Assistant District Attorney

### **Automated Certificate of eService**

This automated certificate of service was created by the eFiling system. The filer served this document via email generated by the eFiling system on the date and to the persons listed below. The rules governing certificates of service have not changed. Filers must still provide a certificate of service that complies with all applicable rules.

Envelope ID: 49991256

Status as of 1/25/2021 12:43 PM CST

Associated Case Party: Elijah Bates

<b>Name</b>	<b>BarNumber</b>	<b>Email</b>	<b>TimestampSubmitted</b>	<b>Status</b>
Lane D.Thibodeaux		lanet1@msn.com	1/25/2021 11:54:13 AM	SENT

Associated Case Party: State of Texas c/o Brazos County District Attorney's Office

<b>Name</b>	<b>BarNumber</b>	<b>Email</b>	<b>TimestampSubmitted</b>	<b>Status</b>
Doug Howell		dhowell@brazoscountytexas.gov	1/25/2021 11:54:13 AM	SENT
Ryan Calvert		rcalvert@brazoscountytexas.gov	1/25/2021 11:54:13 AM	SENT